IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

WP(C).No. 3148 of 2007(Y)

PETITIONER:

RAJAN, S/O.KUMARAN, AGED 41,
AMPALATHENTE VADAKKATHIL, PALAKKAL,
THEVALAKKARA, KARUNAGAPPALLY, KOLLAM.

BY ADV. SRI.C.RAJENDRAN.

RESPONDENTS:

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1. **STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT, SECRETARIAT, THIRUVANANTHAPURAM.**
2. **THE DISTRICT COLLECTOR, KOLLAM.**
3. **TAHSILDAR (REVENUE RECOVERY), KARUNAGAPPALLY.**
4. **THE VILLAGE OFFICER, THEVALAKKARA VILLAGE, KOLLAM.**
5. **THE ZONAL MANAGER, KERALA STATE SCHEDULE CASTE AND SCHEDULE TRIBE DEVELOPMENT CORPORATION, ZONAL OFFICE, MINCHIL ROAD, THYCADU, THIRUVANANTHAPURAM.**

BY GOVT. PLEADER SMT. M.K. PUSHPALATHA,
ADV. SRI. M.K. CHANDRAMOHAN DAS, SC FOR R5.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.3148/2007:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE NOTICE DTD. 22/09/2004.

EXT.P.2: COPY OF THE NOTICE DTD. 12/11/2004.

EXT.P.3: COPY OF THE NOTICE DTD. 24/08/2005.

EXT.P.4: COPY OF THE SALE DEED NO. 364/2004.

EXT.P.5: COPY OF THE NOTICE DTD. 02/02/2007.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR,J.

WP(C)NO.3148 OF 2007-Y

Judgment

The petitioner is in default to the Kerala State Scheduled Caste Scheduled Tribe Development Corporation, in relation to a loan availed of by him to purchase 50 cents of paddy field. Since he failed to pay the amount, the revenue recovery officials have taken steps to attach and sell his residential building, which he has constructed in a plot, having an extent of 5 cents. According to him, the 50 cents of paddy field, which is mortgaged to the 5th respondent should be sold in public auction first. If the amount so realised is not sufficient, then only, his residential building can be attached or sold, it is submitted.

2. I heard the learned Standing Counsel for the 5th respondent and also the learned Government Pleader appearing for respondents 1 to 4. It is true, the 5th respondent can proceed against all or any of the assets of the petitioner to recover the amount due to it. But, the petitioner being a member of the Scheduled Caste Community, the respondents are bound to consider whether he should be thrown out from his residential building unless it is absolutely necessary. Accordingly, respondents 3 and 4 are directed to sell the mortgaged property, having an extent of 50 cents in RS No.34/8 in Block No.16 of Thevalakkara village. If the amount which is received by the sale of the paddy field is not sufficient, needless to say, the petitioner's residential building along with the land can also be attached and sold. If there is no possibility of selling the paddy field in public auction, then also, the respondents may proceed against the residential building of the

petitioner.

The Writ Petition is disposed of as above.

06.03.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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